

**Enrolled Minutes of the Sixty-fourth Regular (Rescheduled) Meeting  
Of the Twenty-Sixth Highland Town Council  
Tuesday, September 07, 2010**

*Study Session.* The Twenty-Sixth Town Council of the Town of Highland, Lake County, Indiana met in a study session preceding the rescheduled (regular) meeting on Tuesday, September 07, 2010 at 6:40 O'clock P.M. in the regular place, the plenary meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

*Silent Roll Call:* Councilors Bernie Zemen, Mark A. Herak, Dan Vassar, Brian Novak and Konnie Kuiper were present. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

**General Substance of Matters Discussed.**

1. The Town Council discussed the agenda of the imminent meeting.
2. The Town Council discussed the proposed ordinance 1475 providing for a non-recurrent surcharge associated with persons who still have non-radio reading meters forcing the Municipal Utilities to manually read the meter. It was noted that it could not be acted upon until a public hearing had taken place.

The study session ended at 6:59 O'clock p.m.

*Regular (Rescheduled) Meeting.* The Twenty Sixth Town Council of the Town of Highland, Lake County, Indiana met in its regular session on Tuesday, September 07, 2010 at 7:00 O'clock p.m. in the regular place, the plenary meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

The Town Council President Mark A. Herak presided and the Town Clerk-Treasurer was present to memorialize the proceedings.

The session was opened with the Town Councilor Dan Vassar leading the pledge of allegiance to the United States Flag and offering a prayer.

**Roll Call:** Councilors Bernie Zemen, Mark A. Herak, Dan Vassar, Brian Novak and Konnie Kuiper were present. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

**Additional Officials Present:** Rhett L. Tauber, Town Attorney; John M. Bach, Public Works Director; Peter T. Hojnicky, Metropolitan Police Chief; and Cecile Petro, Redevelopment Director were also present.

James L. Wieser, Attorney and Greg Grimmer, Use Variance petitioner, were also present.

**Minutes of the Previous Session:**

The minutes of the regular meeting of 16 August 2010 were approved by general consent.

With leave from the Town Council, the Town Council President acknowledged and congratulated the Clerk-Treasurer on his renewal for his Certified Public Finance Administrator (CPFA) designation. He also presented newspapers featuring a news account of the designation.

**Special Orders:**

1. **Public Hearing:** Proposed Additional Appropriations in Excess of the 2010 Budget of the **Special Events Non Reverting Fund in the amount of \$5,000 and \$13,400 for a total of \$18,400 and in the Select Centennial Commission Fund, in the amount of \$10,000.**
  - (a) Attorney verification of Proofs of Publication: The TIMES 19 August 2010. The Town Attorney indicated that the proofs of publication were in compliance with IC 5-3-1.
  - (b) **Public Hearing.** The Town Council President called the public hearing to order. There were no comments, written or spoken. The hearing was closed.
  - (c) Action on **Appropriation Enactment No. 2010-34:** An Enactment Appropriating Additional Moneys in Excess of the 2010 Budget in Excess of the Annual Budget for the **Special Events Non Reverting Fund in the amount of \$5,000 and \$13,400 for a total of \$18,400 and in the Select Centennial Commission Fund, in the amount of \$10,000**, pursuant to I.C. 6-1.1-18, I.C. 36-5-3-5, et seq. Councilor Zemen introduced and moved the consideration at the same meeting of introduction of Enactment No. 2010-34. Councilor Kuiper seconded. Upon a roll call vote, a unanimous vote being necessary, there were five affirmatives and no negatives. The motion passed. The Enactment could be considered at the same meeting of introduction.

Councilor Zemen moved the passage and adoption at the same meeting of introduction of Enactment No. 2010-34. Councilor Novak seconded. Upon a roll call vote, a two-thirds vote being necessary, there were five affirmatives and no negatives. The motion passed. The Enactment was adopted.

**Town of Highland  
Appropriation Enactment  
Enactment No. 2010-34**

AN ENACTMENT APPROPRIATING ADDITIONAL MONEYS IN EXCESS OF THE ANNUAL BUDGET for the SELECT CENTENNIAL COMMISSION FUND and the SPECIAL EVENTS NON-REVERTING FUND, PURSUANT TO I.C. 6-1.1-18, I.C. 36-5-3-5, ET SEQ.

WHEREAS, Following a public hearing advertised pursuant to I.C. 5-3-1, it has been determined that it is now necessary to appropriate more money than was appropriated in the annual budget for the **Select Centennial Commission Fund** and the **Special Events Non Reverting Fund**;

WHEREAS, It has been determined that such additional appropriations as may be approved by this enactment, will not increase the levies set under I.C. 6-1.1-17, all pursuant to I.C. 36-5-3-5;

NOW, THEREFORE BE IT ENACTED by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

**Section 1.** That for the expenses of said municipality, the following additional sums of money are hereby appropriated and ordered set apart out of the **Select Centennial Commission Fund** herein named and for the purposes herein specified, subject to the laws governing the same:

**SELECT CENTENNIAL COMMISSION FUND:**

Acct. No. 200.03 Misc. Supplies:		<u>\$ 3,000.00</u>
	Total Series:	<u>\$ 3,000.00</u>
Acct. No. 380.00 Event Expenses:		<u>\$ 7,000.00</u>
	Total Series:	<u>\$ 7,000.00</u>
	<b>Total for Fund:</b>	<u><u>\$10,000.00</u></u>

**Section 2.** That for the expenses of said municipality, the following additional sums of money are hereby appropriated and ordered set apart out of the **Special Events Non Reverting Fund** herein named and for the purposes herein specified, subject to the laws governing the same:

**SPECIAL EVENTS NON- REVERTING FUND**

Acct. No. 3XX.XX Cabbage Fest Events:	\$ 5,000.00
Acct. No. 3XX.XX Fireworks/Pyrotechnics Services:	<u>\$ 13,400.00</u>
Total Series:	\$ 18,400.00
<b>Total for Fund:</b>	<u><b>\$ 18,400.00</b></u>

**Section 3.** That the Clerk-Treasurer is hereby authorized and instructed to inform the Department of Local Government Finance of this action and that these monies are made available for expenditure pursuant to I.C. 6-1.1-18.

**Section 4.** That in satisfaction and for the purposes of the provisions set out in I.C. 36-5-2-9.6, I.C. 36-5-3-5, I.C. 36-5-4-2, this enactment shall be deemed properly filed and introduced before the Town Council at a regular or special meeting, properly called and convened pursuant to I.C. 5-1.5-14 *et seq.*

Introduced and Filed on the 7<sup>th</sup> Day of September 2010. Consideration on the same day or at same meeting of introduction sustained a vote of 5 in favor and 0 opposed, pursuant to IC 36-5-2-9.8.

**DULY ORDAINED AND ADOPTED** this 7<sup>th</sup> Day of September 2010, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

**Mark A. Herak, President (IC 36-5-2-10)**

**ATTEST:**

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

2. **Advisory Board of Zoning Appeals Docket:** Petition for a Use Variance for property located at **2645 Main Street, Highland**, to allow daycare facility, in property currently zoned as B-3 General Business District. Petitioner: Grimmer Family Limited Partnership. The Advisory Board of Zoning Appeals by a vote of three in favor and two opposed acted to **Unfavorably recommend the request for the use variance**. The ABZA acted at its meeting of 28 July 2010. The findings of fact were memorialized and the board approved the facts in written form at its meeting of 25 August 2010. (*90 days ends 26 October 2010*.) Pursuant to IC 36-7-4-918.6, the Town Council may either **accept the unfavorable recommendation** and deny the requested use variance or it may **reject (over rule) the recommendation** and grant the use variance.

Councilor Kuiper moved that the unfavorable recommendation of the Advisory Board of Zoning Appeals be rejected and that the requested use variance be granted. Councilor Vassar seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The requested use variance was granted.

**Communications:**

1. A letter was read from John M. Sannito, President of John M. Sannito and Company, P.C., 2708 45<sup>th</sup> Avenue, requesting a waiver from a \$25 surcharge for payments made after 28 February of the Calendar year for Business Licensing, as set forth in Section § 110.05. This business had a license in FY 2009.
2. A letter was read from Dina Gazcas, of Zorba's Restaurant, 3309-45<sup>th</sup> Avenue, requesting a waiver from a \$25 surcharge for payments made after 28 February of the Calendar year for

Business Licensing, as set forth in Section § 110.05. This business had a license in FY 2008 and FY 2009.

Councilor Novak moved to waive the added \$25 fee as requested above. Councilor Zemen seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The added \$25 charge for payment of business license after February 28 was waived.

**Unfinished Business and General Orders:**

1. **Introduced Ordinance No. 1471:** AN ORDINANCE AMENDING THE HIGHLAND CODE OF ORDINANCES CONCERNING ANIMALS AND FOWL. *Councilor Vassar introduced and filed the ordinance at the Town Council Meeting of August 16, 2010. There was no further action.*

Councilor Vassar moved the passage and adoption of Ordinance No. 1471. Councilor Novak seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The ordinance was adopted.

**TOWN OF HIGHLAND, LAKE COUNTY, INDIANA  
ORDINANCE NO. 1471**

**AN ORDINANCE AMENDING THE HIGHLAND CODE OF ORDINANCES CONCERNING ANIMALS AND FOWL**

**WHEREAS**, Indiana Code 36-1-3 et seq., authorizes the Town of Highland, as a municipality, to adopt Ordinances for the purpose of protecting the health, safety and welfare of its residents, and to preserve the peace, order and safety of the Town; and

**WHEREAS**, The Town Council of the Town of Highland, Lake County, Indiana, has determined that it is in the best interest of the community to provide that certain offenses under the Ordinance which previously were not included as payable offenses be made payable offenses by amending §92.99 of the Highland Municipal Code of Ordinances to provide that said offenses shall be eligible as a payable offense; and

**WHEREAS**, The Town Council of the Town of Highland, Lake County, Indiana, having reviewed all matters relevant hereto, including applicable provisions of the Highland Code of Ordinances, the Indiana Code, and recommendations of the Highland Chief of Police, now concurs that it is advisable, necessary, and in the best interests of the residents of the Town of Highland that amendment be made to the Highland Code of Ordinances.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HIGHLAND, LAKE COUNTY, INDIANA:**

**Section 1.** That §92.99 of the Highland Code of Ordinances be amended by repealing it in its entirety and replacing it with the following section, which shall read as follows:

§92.99 Penalty.

(A) Except as otherwise provided, any person, entity or organization who shall violate §92.04(A) or (B), §92.04(E), §92.09, §92.10, or §92.20 shall be fined in the amount set forth in the designated schedule as a payable offense subject to admission before the Violations Clerk of the Ordinance Violation Bureau in the amount set forth in the Admissions Clerk Payable Offenses Schedule in §131.06.

(B) If such persons, entity or organization shall violate §92.04(A) or (B), §92.04(E), §92.09, §92.10, or §92.20, of this chapter, and there is a failure to satisfy the civil violation as set forth in Chapter 131 of this code, then such violations shall be construed as justiciable offenses, and upon conviction or a finding of liable, shall be subject to a fine of not less than \$10, and no more than \$100 per violation. Each day of such unlawful activity as is prohibited shall be deemed a separate offense.

(C) Any person violating any other provisions of this chapter excluding those provisions set forth in (A) and (B) above, shall be punished by a fine of not less than \$10, and no more than \$100 per violation. Each day of such unlawful activities as is prohibited shall be deemed a separate offense.

**Section 2.** That §131.06(B) of the Highland Code of Ordinances is hereby replaced to read and provide as follows:

Code Section	Violation	Fine
§92.04(A) or (B)	Dog running loose	First offense: \$50 Second offense and each offense thereafter: \$100
§92.04(E)	Dog barking	First offense: \$50 Second offense and each offense thereafter: \$100
§92.09	Animal vaccination violation	\$50
§92.10	Animal waste violation	\$50
§92.20	Animal license violation	\$50

**Section 3.** All existing Town Code Sections and Ordinances, or parts thereof, in conflict with the provisions of this Ordinance, are hereby repealed and declared to be null, void, and of no legal effect.

**Section 4.** If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance.

**Section 5.** An emergency is declared requiring the immediate effectiveness of this Ordinance. It shall take effect immediately upon its signature by the executive in the manner prescribed by IC 36-5-2-10(a) and its publication as prescribed in IC 36-5-2-10(b).

Introduced and Filed on the 16<sup>th</sup> day of August 2010. Consideration on same day or at same meeting of introduction was/ was not undertaken pursuant to IC 36-5-2-9.8.

**DULY ORDAINED and ADOPTED** this 7<sup>th</sup> day of September, 2010, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the  
TOWN of HIGHLAND, INDIANA**

Mark A. Herak, President (IC 36-5-2-10)

ATTEST:

Michael W. Griffin, IAMC/MMC/CPFA,  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

2. **Introduced Ordinance No. 1472: AN ORDINANCE AMENDING THE HIGHLAND CODE OF ORDINANCES CONCERNING THE GENERAL OFFENSES CODE.** *Councilor Vassar introduced and filed the ordinance at the Town Council Meeting of August 16, 2010. There was no further action.*

Councilor Zemen moved the passage and adoption of Ordinance No. 1472. Councilor Novak seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The ordinance was adopted.

**TOWN OF HIGHLAND, LAKE COUNTY, INDIANA  
ORDINANCE NO. 1472**

**AN ORDINANCE AMENDING THE HIGHLAND CODE OF ORDINANCES CONCERNING THE GENERAL OFFENSES CODE**

**WHEREAS**, Indiana Code 36-1-3 et seq., authorizes the Town of Highland, as a municipality, to adopt Ordinances for the purpose of protecting the health, safety and welfare of its residents, and to preserve the peace, order and safety of the Town; and

**WHEREAS**, The Town Council of the Town of Highland, Lake County, Indiana, has determined that it is in the best interest of the community to provide that certain offenses under the Ordinance which previously were not included as payable offenses be made payable offenses by amending §130.05 of the Highland Municipal Code of Ordinances to provide that said offenses shall be eligible as a payable offense; and

**WHEREAS**, The Town Council of the Town of Highland, Lake County, Indiana, having reviewed all matters relevant hereto, including applicable provisions of the Highland Code of Ordinances, the Indiana Code, and recommendations of the Highland Chief of Police, now concurs that it is advisable, necessary, and in the best interests of the residents of the Town of Highland that amendment be made to the Highland Code of Ordinances.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HIGHLAND, LAKE COUNTY, INDIANA:**

**Section 1.** That subsections 130.15, 130.16, 130.17, 130.18 of the Municipal Code are hereby deleted in their entirety and not replaced.

**Section 2.** That §130.99 of the Highland Municipal Code of Ordinances be amended by deleting it in its entirety and replacing it with a new subsection which shall now read as follows:

(A) Any person who violates any provision of this chapter for which no penalty is otherwise provided shall be subject to the penalty provided in Section §10.99.

(B) An officer of the Town of Highland Metropolitan Police Department may issue an ordinance violation citation to any person, firm or corporation who violates or fails to comply with this chapter.

(C) The penalty for the violation of Section §130.02 of this chapter shall be a fine not to exceed \$2,500 for each offense.

(D) An officer of the Town of Highland Police Department or any other otherwise authorized officer under this code, may issue an ordinance violation citation to any person, firm or corporation who violates or fails to comply with §130.03 et seq. of this chapter. The violations of §130.03 et seq. of this chapter shall be punished by a fine not less than \$700 for each offense and not greater than two times the value of the public art provided, the calculation shall not exceed the amount of \$2,500. Each violation of said sections shall constitute a separate offense.

(E) Any person, entity or organization who shall violate Sections §130.04 or §130.05 of this chapter shall be fined in the amount set forth in the designated schedule as a payable offense subject to admission before the Violations Clerk of the Ordinance Violation Bureau in the amount set forth in the Admissions Clerk Payable Offenses Schedule in §131.06; provided, however, in the event that the curfew charge under §130.05 is a third violation, that violation would result in a mandatory court appearance. Extreme circumstances or attitude will also mandate a court appearance with regard to a curfew violation.

(F) If such persons, entity or organization shall violate Sections §130.04 or 130.05 of this chapter, and there is a failure to satisfy the civil violation as set forth in Chapter 131 of this code, then such violation shall be construed as justiciable offenses and shall be subject to a fine of not less than \$100 per violation, nor more than \$2,500 per violation. Each day of such unlawful activity as is prohibited shall be deemed a separate offense.

**Section 3.** That §131.06 (B) of the Highland Code of Ordinances is hereby amended to read and provide as follows:

Code Section	Violation	Fine
§130.04	Skateboarding prohibited	\$45
§130.05	Minor curfew	First offense: \$100 if curfew is only charge Second offense: \$200 Third offense: mandatory court appearance

**Section 4.** All existing Town Code Sections and Ordinances, or parts thereof, in conflict with the provisions of this Ordinance, are hereby repealed and declared to be null, void, and of no legal effect.

**Section 5.** If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance.

**Section 6.** An emergency is declared requiring the immediate effectiveness of this Ordinance. It shall take effect immediately upon its signature by the executive in the manner prescribed by IC 36-5-2-10(a) and its publication as prescribed in IC 36-5-2-10(b).

Introduced and Filed on the 16<sup>th</sup> day of August 2010. Consideration on same day or at same meeting of introduction was/ was not undertaken pursuant to IC 36-5-2-9.8.

DULY ORDAINED and ADOPTED this 7<sup>th</sup> day of September, 2010, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the  
TOWN of HIGHLAND, INDIANA**

Mark A. Herak, President (IC 36-5-2-10)

ATTEST:

Michael W. Griffin, IAMC/MMC/CPFA,  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

3. **Introduced Ordinance No. 1473:** AN ORDINANCE AMENDING THE HIGHLAND CODE OF ORDINANCES CONCERNING ABANDONED AND JUNKED MOTOR VEHICLES. *Councilor Vassar introduced and filed the ordinance at the Town Council Meeting of August 16, 2010. There was no further action.*

Councilor Kuiper moved the passage and adoption of Ordinance No. 1473. Councilor Novak seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The ordinance was adopted.

**TOWN OF HIGHLAND, LAKE COUNTY, INDIANA  
ORDINANCE NO. 1473**

**AN ORDINANCE AMENDING THE HIGHLAND CODE OF ORDINANCES CONCERNING ABANDONED AND JUNKED MOTOR VEHICLES**

**WHEREAS**, Indiana Code 36-1-3 et seq., authorizes the Town of Highland, as a municipality, to adopt Ordinances for the purpose of protecting the health, safety and welfare of its residents, and to preserve the peace, order and safety of the Town; and

**WHEREAS**, The Town Council of the Town of Highland, Lake County, Indiana, has determined that it is in the best interest of the community to provide that offenses under the Ordinance which previously were not included as payable offenses be made payable offenses by amending Chapter 90 of the Highland Municipal Code of Ordinances to provide that said offenses shall be eligible as a payable offense; and

**WHEREAS**, The Town Council of the Town of Highland, Lake County, Indiana, having reviewed all matters relevant hereto, including applicable provisions of the Highland Code of Ordinances, the Indiana Code, and recommendations of the Highland Chief of Police, now concurs that it is advisable, necessary, and in the best interests of the residents of the Town of Highland that amendment be made to the Highland Code of Ordinances.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HIGHLAND, LAKE COUNTY, INDIANA:**

**Section 1.** That Chapter 90 of the Highland Municipal Code of Ordinances is hereby amended by adding §90.03, which shall read as follows:

**§ 90.03 Penalty.**

(A) Except as otherwise provided, any person, entity or organization who shall violate any provisions of this chapter shall be fined in the amount set forth in the designated scheduled as a payable offense subject to admission before the Violations Clerk of the Ordinance Violations Bureau in the amount set forth in the Admissions Clerk Payable Offenses Schedule in §131.06.

(B) If such person, entity or organization shall violate any provisions of this chapter and there is a failure to satisfy the civil violation as set forth in Chapter 131 of this Code, then such violation shall be construed as justiciable offenses, and upon conviction or a finding of liable, shall be subject to a fine of not less than \$100, and no more than \$2,500 per violation. Each day of such unlawful activity as is prohibited shall be deemed a separate offense.

**Section 2.** §131.06 (B) of the Highland Code of Ordinances is hereby amended to read and provide as follows

Code Section	Violation	Fine
§ 90.03	Abandoned and junked motor vehicles	\$100

**Section 3.** All existing Town Code Sections and Ordinances, or parts thereof, in conflict with the provisions of this Ordinance, are hereby repealed and declared to be null, void, and of no legal effect.

**Section 4.** If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance.

**Section 5.** An emergency is declared requiring the immediate effectiveness of this Ordinance. It shall take effect immediately upon its signature by the executive in the manner prescribed by IC 36-5-2-10(a) and its publication as prescribed in IC 36-5-2-10(b).

Introduced and Filed on the 16<sup>th</sup> day of August 2010. Consideration on same day or at same meeting of introduction ~~was~~ was not undertaken pursuant to IC 36-5-2-9.8.

DULY ORDAINED and ADOPTED this 7<sup>th</sup> day of September, 2010, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote 5 in favor and 0 opposed.

TOWN COUNCIL of the  
TOWN of HIGHLAND, INDIANA

Mark A. Herak, President (IC 36-5-2-10)

ATTEST:

Michael W. Griffin, IAMC/MMC/CPFA,  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

4. **Introduced Ordinance No. 1474:** AN ORDINANCE AMENDING THE HIGHLAND CODE OF ORDINANCES TO REGULATE NOISE CONTROL WITHIN THE TOWN. Councilor Vassar introduced and filed the ordinance at the Town Council Meeting of August 16, 2010. There was no further action.

Councilor Novak moved the passage and adoption of Ordinance No. 1474. Councilor Vassar seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The ordinance was adopted.

TOWN OF HIGHLAND, LAKE COUNTY, INDIANA  
ORDINANCE NO. 1474

AN ORDINANCE AMENDING THE HIGHLAND CODE OF ORDINANCES TO REGULATE NOISE CONTROL WITHIN THE TOWN

**WHEREAS**, Indiana Code 36-1-3 et seq., authorizes the Town of Highland, as a municipality, to adopt Ordinances for the purpose of protecting the health, safety and welfare of its residents, and to preserve the peace, order and safety of the Town; and

**WHEREAS**, The Town Council of the Town of Highland, Lake County, Indiana, has determined that it is in the best interest of the community to provide that offenses under the Ordinance which previously were not included as payable offenses be made payable offenses by amending §95.06 of the Highland Municipal Code of Ordinances to provide that said offenses shall be eligible as a payable offense; and

**WHEREAS**, The Town Council of the Town of Highland, Lake County, Indiana, having reviewed all matters relevant hereto, including applicable provisions of the Highland Code of Ordinances, the Indiana Code, and recommendations of the Highland Chief of Police, now concurs that it is advisable, necessary, and in the best interests of the residents of the Town of Highland that amendment be made to the Highland Code of Ordinances.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HIGHLAND, LAKE COUNTY, INDIANA:**

**Section 1.** That §95.06 of the Municipal Code be amended by repealing it and replacing it with a new section which shall read as follows:

(A) Except as otherwise provided, any person, entity or organization who shall violate any provisions of this chapter shall be fined in the amount set forth in the designated schedule as a payable offense subject to admission before the Violations Clerk of the Ordinance Violations Bureau in the amount set forth in the Admissions Clerk Payable Offenses Schedule in §131.06.

(B) If such person, entity or organization shall violate any provisions of this chapter and there is a failure to satisfy the civil violation as set forth in Chapter 131 of this Code, then such violation shall be construed as justiciable offenses, and upon conviction or a finding of liable, shall be subject to a fine of no more than \$2,500 per violation. Each day of such unlawful activity as is prohibited shall be deemed a separate offense.

(C) During any trial concerning the provisions of this chapter, the court may admit evidence of the sound pressure level as tested by a sound level meter which meets or exceeds ANSI specifications for type II equipment.

(D) In the event a noise violation persists, in lieu of the town assessing a fine for each day the noise continues, the Town Council, through its Town Attorney, may proceed to seek injunctive relief to enjoin the noise ordinance, pursuant to I.C. 36-1-6-4.



**Section 2.** §131.06 (B) of the Highland Code of Ordinances is hereby amended to read and provide as follows

Code Section	Violation	Fine
§95.06	Various noise ordinance violations	First offense: \$50 Second offense: \$100 And any offense thereafter

**Section 3.** All existing Town Code Sections and Ordinances, or parts thereof, in conflict with the provisions of this Ordinance, are hereby repealed and declared to be null, void, and of no legal effect.

**Section 4.** If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance.

**Section 5.** An emergency is declared requiring the immediate effectiveness of this Ordinance. It shall take effect immediately upon its signature by the executive in the manner prescribed by IC 36-5-2-10(a) and its publication as prescribed in IC 36-5-2-10(b).

Introduced and Filed on the 16<sup>th</sup> day of August 2010. Consideration on same day or at same meeting of introduction was not undertaken pursuant to IC 36-5-2-9.8.

DULY ORDAINED and ADOPTED this 7<sup>th</sup> day of September 2010, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

TOWN COUNCIL of the  
TOWN of HIGHLAND, INDIANA

Mark A. Herak, President (IC 36-5-2-10)

ATTEST:

Michael W. Griffin, IAMC/MMC/CPFA,  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

5. **Proposed Ordinance No. 1475:** An Ordinance to Amend Chapter 190 of the Highland Municipal Code Regarding the Department of Waterworks by Amending portions of Section §190.11 regarding Rates and Charges, all pursuant to I.C. 36-1-4, IC 36-1-5, IC 8-1.5-3-8.1 and IC 8-1.5-4 et sequitur. *Councilor Zemen introduced and filed Ordinance No. 1475. There was no further action.*
6. **Proposed Enactment No. 2010-36:** Action to approve overtime payments for Exempt Salaried Personnel, pursuant to Section 3 of Ordinance No. 1375 the Wage and Salary Ordinance, as amended and Section §4.03.01 of the Compensation and Benefits Ordinance. This waives the provisions of Section § 2.01 of the Compensation and Benefits Ordinance, and suspend Section 10 (e) (3) and (4) of the Wage and Salary Ordinance.

Councilor Kuiper introduced and moved for the consideration at the same meeting of introduction of Enactment No. 2010-36. Councilor Novak seconded. Upon a roll call vote, a unanimous vote being necessary, there were five affirmatives and no negatives. The motion passed. The enactment could be considered at the same meeting of its introduction.

Councilor Kuiper moved for the passage and adoption at the same meeting of introduction of Enactment No. 2010-36, as amended. Councilor Zemen seconded. Upon a roll call vote, a two-thirds vote being necessary, there were four affirmatives, no negatives and one abstention. With Councilors Zemen, Novak, Kuiper, and Herak voting in the affirmative and Councilor Vassar abstaining, the motion passed. The enactment was adopted as amended.

*Amendment.* After the motion to pass and adopt but before the vote, Councilor Kuiper moved, Councilor Zemen seconded, to amend Enactment No. 2010-36 to also include any overtime detail as described in the enactment conducted in August and September. Upon a roll call vote, there were four affirmatives, no negatives and one abstention. With Councilors Zemen, Novak, Kuiper, and Herak voting in the affirmative and Councilor Vassar abstaining, the motion passed. The amendment was adopted.

Councilor Vassar abstained based upon the overtime authorization involving Assistant Chief Vassar, who is his brother.

TOWN OF HIGHLAND  
ENACTMENT NO. 2010-36

**AN ENACTMENT TO APPROVE OVERTIME PAYMENTS FOR EXEMPT SALARIED PERSONNEL AS SET FORTH IN SECTION 3 of the WAGE AND SALARY ORDINANCE, WAIVING SECTION 2.01 of the COMPENSATION and BENEFITS ORDINANCE, and SUSPENDING SECTION 10 (E) (3) and (4) OF SALARY ORDINANCE IN ORDER TO AUTHORIZE A PARTICULAR PAY RATE.**

**WHEREAS**, Title 36, Article 1 Chapter 4 of the Indiana Code confers certain general corporate powers on the several units of government in Indiana;

**WHEREAS**, Section fifteen of that chapter specifically provides that a unit of government may fix the level of compensation of its officers and employees; and

**WHEREAS**, I.C. 36-5-3-2 further provides in pertinent part that the town legislative body shall provide reasonable compensation for the other town officers and employees;

**WHEREAS**, Two Exempt Salaries Officers were authorized and directed to work a special detail, providing patrol by bicycle, unrelated to a special event, but rather undertaken as a particular law enforcement initiative;

**WHEREAS**, The current wage and salary ordinance provides for payment for bicycle detail at a rate of pay at 1.5 times the salary, converted to its hourly rate plus longevity but only when supported by a grant, which in the case of the special detail herein described, no grant funding attained;

**WHEREAS**, Absent action by the Town Council, the current language governing such pay for such an assigned detail, when worked by exempt salaried persons; and,

**WHEREAS**, The Metropolitan Police Chief has recommended that the Town Council authorize for payments to be made to the particular exempt salaried personnel, based upon actual hours worked on the detail at a rate of 1.5 times the officer's base pay plus longevity; and,

**WHEREAS**, The Town Council now desires to act to permit the pay as recommended,

**NOW, THEREFORE, BE IT HEREBY ENACTED** by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

**Section 1.** That the provisions of Section 10 (e) (3) of the Wage and Salary Ordinance as amended, particularly reading "*Overtime provisions of the Compensation and Benefits Ordinance notwithstanding, the following special assignments or details will be paid at 1.5 times the composite rate (base rate plus longevity rate) of the assigned officer for hours performing the special assignment, provided such rate is lawful and authorized under the terms of the supporting grant*" shall be temporarily suspended and waived; further, that the provisions of Section 10 (e) (4) of the Wage and Salary Ordinance as amended, particularly reading, "*No rate of pay may be fixed for any regular duty or special detail or described employment, regardless of the source of funds, that has not been authorized or provided for in this Wage and Salary Ordinance as amended in effect or the Compensation and Benefits Ordinance as amended and in effect,*" shall be temporarily suspended and waived for the purpose of permitting R. Potesta, Commander CID, to be paid at the hourly rate of \$44.13 and P. Vassar, Commander / Asst. Chief to be paid at the hourly rate of \$44.25 for the hours worked in the bicycle detail ~~on July 10~~ for the months of July, August and September;

**Section 2.** That the forgoing action is limited to the instance described and the provisions of Section 10 otherwise remain in full force and effect;

**Section 3.** That the Clerk-Treasurer shall have authority to implement within a reasonable time those provisions regarding wage changes occurring between the effective dates set forth retroactively in this ordinance and the date of its passage and adoption.

Introduced and Filed on the 7<sup>th</sup> day of September 2010. Consideration on same day or at same meeting of introduction sustained a vote of 4 in favor and a vote of 0 opposed, with 1 abstention, pursuant to IC 36-5-2-9.8.

**DULY ORDAINED and ADOPTED** this 7<sup>th</sup> Day of September 2010, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 0 opposed with 1 abstention.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Mark A. Herak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

7. **Proposed Ordinance No. 1476:** An Ordinance of the Town of Highland, Indiana, preliminarily authorizing the issuance and sale of Recovery Zone Economic Development Bonds of the Town for the purpose of providing funds to be used for the construction and reconstruction of certain road improvements, together with related and incidental expenses in connection therewith and on account of the issuance of the bonds therefore.

Councilor Novak introduced and moved for the consideration at the same meeting of introduction of Ordinance No. 1476. Councilor Vassar seconded. Upon a roll call vote, a unanimous vote being necessary, there were five affirmatives and no negatives. The motion passed. The ordinance could be considered at the same meeting of its introduction.

Councilor Novak moved for the passage and adoption at the same meeting of introduction of Ordinance No. 1476. Councilor Kuiper seconded. Upon a roll call vote, a two-thirds vote being necessary, there were five affirmatives and no negatives. The motion passed. The ordinance was adopted.

**Town of Highland  
ORDINANCE No. 1476**

**An Ordinance of the Town of Highland, Indiana, preliminarily authorizing the issuance and sale of Recovery Zone Economic Development Bonds of the Town for the purpose of providing funds to be used for the construction and reconstruction of certain road improvements, together with related and incidental expenses in connection therewith and on account of the issuance of the bonds therefor**

**WHEREAS**, Town of Highland (the "Issuer" or "Town") is a Town organized and existing under the provisions of IC 36-5; and

**WHEREAS**, The Town Council finds that the present facilities of the Town are not adequate to provide the proper Town services to present and future Town residents utilizing its facilities; and

**WHEREAS**, The Town Council finds that there are not sufficient funds available or provided for in existing tax levies with which to pay the total cost of the proposed Idlewild Avenue reconstruction project and Woodward Avenue reconstruction project each consisting of roadway reconstruction with drainage improvements, installation of concrete curbs and gutters, sidewalk replacement and water main replacement (collectively the "Project") in said Town, and that the Town should issue bonds in the amount of \$890,000 for the purpose of providing funds to be applied on the Project, and that bonds in such amount should now be authorized; and

**WHEREAS**, Pursuant to the Recovery Act, the Board of Commissioners of Lake County has allocated to the Town \$890,000 of Recovery Zone Economic Development Bond authority; Now,

**THEREFORE, BE IT HEREBY ORDAINED** by the Highland Town Council, as follows:

**Section 1.** That for the purpose of obtaining funds to be applied on the cost of the Project, there shall be issued and sold the negotiable, general obligation bonds of the Town to be designated as "Taxable General Obligation Bonds, Series 2010 (Recovery Zone Economic Development Bonds – Direct Payment Option)." Said bonds shall be in a principal amount not to exceed Eight Hundred Ninety Thousand Dollars (\$890,000), bearing interest at a rate or rates not exceeding six percent (6%) per annum (the exact rate or rates to be determined by bidding), which interest shall be payable on **February 1** and **August 1** in each year.

**Section 2** That the bonds shall be fully registered in the denomination of Five Thousand Dollars (\$5,000) or integral multiples thereof, and shall mature serially on February 1 and August 1 beginning February 1, 2011 through not later than February 1, 2026. The Bonds shall be redeemable on the dates and in the amounts as determined by the Town.

**Section 3.** That the Bonds shall be irrevocably designated as Recovery Zone Economic Development Bonds for purposes of Section 1400U of the Internal Revenue Code (the "Code"), and Section 6431(f) of the Code shall irrevocably apply to the Bonds.

**Section 4.** That prior to the sale of said Bonds at public sale, notice of such sale shall be published once each week for two (2) weeks in The Times and The Post-Tribune, the first of said publications to be at least fifteen (15) days prior to the date fixed for the sale of said bonds and the last at least three (3) days prior, and notice may be published in the Court and Commercial Record, a newspaper published in the City of Indianapolis, Indiana. At the time fixed for the opening of bids, all bids shall be opened in the presence of the Clerk-Treasurer, and the award shall be made by the Clerk-Treasurer.

**Section 5.** That the matter of appropriating the proceeds of the Bonds authorized at this meeting be taken up for consideration as soon as notice of the hearing on said appropriation can be given as provided by law, and that the Clerk-Treasurer of the Town be and he hereby is directed to give notice of the public hearing to be held prior to the final action on such appropriation, which notice shall be published twice, one week apart, in the Times and The Post-Tribune; also, that said notice shall be posted in three (3) public places in the Town, and that such first publication and posting shall be made at least ten (10) days prior to the date set for such public hearing.

Introduced and Filed on the 7<sup>th</sup> day of September 2010. Consideration on same day or at same meeting of introduction sustained a vote of 5 in favor and 0 opposed, pursuant to IC 36-5-2-9.8.

**DULY ORDAINED and ADOPTED** this 7<sup>th</sup> day of September 2010 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

**Mark A. Herak, President (IC 36-5-2-10)**

Attest:

**Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)**

- 8. Resolution No. 2010-33:** An Exigent Resolution Providing for the TRANSFER of APPROPRIATION BALANCES from and AMONG MAJOR BUDGET CLASSIFICATIONS in the MUNICIPAL CUMULATIVE CAPITAL DEVELOPMENT FUND as REQUESTED BY THE PROPER OFFICER AND FORWARDED to the TOWN COUNCIL for its ACTION PURSUANT TO IC 6-1.1-18-6. Councilor Kuiper moved the passage and adoption of Resolution No. 2010-33. Councilor Vassar seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The Resolution was adopted.

**TOWN OF HIGHLAND  
APPROPRIATION TRANSFER RESOLUTION  
RESOLUTION NO. 2010-33**

**AN EXIGENT RESOLUTION PROVIDING for the TRANSFER of APPROPRIATION BALANCES from and AMONG MAJOR BUDGET CLASSIFICATIONS in the MUNICIPAL CUMULATIVE CAPITAL DEVELOPMENT FUND as REQUESTED BY THE PROPER OFFICER AND FORWARDED to the TOWN COUNCIL for its ACTION PURSUANT TO IC 6-1.1-18-6.**

**WHEREAS,** It has been determined that certain exigent conditions have developed since adoption of the original budget and it is now necessary to transfer certain appropriations into different categories than were initially appropriated for the various functions of the **Municipal Cumulative Capital Development Fund**;

**NOW, THEREFORE BE IT RESOLVED** by the Town Council of the Town of Highland, Lake County, Indiana as follows:

**Section 1.** That for the expenses of said municipality, the following appropriations are hereby transferred and set apart out of the funds hereinafter named for the purposes specified, subject to the laws governing the same, such sums herein transferred unless otherwise stipulated by law;

**Section 2.** That is has been shown that certain existing unobligated appropriations of the **Municipal Cumulative Capital Development Fund** which are not needed at this time for the purposes for which originally appropriated, and may be transferred to a category of appropriation in order to satisfy an existing need, as follows:

MUNICIPAL CUMULATIVE CAPITAL DEVELOPMENT FUND

Reduce Account: #430.12 Police Vehicles	\$7,006.00
Total 400 Series Reductions	\$7,006.00

Increase Account: #300.02 Police Vehicle Equipment	\$7,006.00
Total 300 Series Increases	\$7,006.00

<b>Total of All Fund Decreases:</b>	<b>\$7,006.00</b>
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<b>Total of All Fund Increases:</b>	<b>\$7,006.00</b>
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**DULY RESOLVED and ADOPTED** this 7th Day of September 2010 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Mark A. Herak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

- 9. Resolution No. 2010-35:** A Resolution Approving an Interlocal Cooperation Agreement between the Incorporated Town of Highland and the School Town of Highland for the Utilization of School Resource Officer Program Services. Councilor Novak moved the passage and adoption of Resolution No. 2010-35. Councilor Vassar seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The Resolution was adopted.

**TOWN OF HIGHLAND  
TOWN COUNCIL RESOLUTION No. 2010-35**

**A Resolution Approving an Interlocal Cooperation Agreement between the Incorporated Town of Highland and the School Town of Highland for the Utilization of School Resource Officer Program Services**

**WHEREAS**, Indiana Code 36-1-7-1, et seq., allows local government entities to make the most efficient use of the powers by enabling them to mutually utilize services for the mutual benefit of each other; and

**WHEREAS**, The Incorporated Town of Highland and the School Town of Highland, Lake County, Indiana are municipal corporations empowered by the aforesaid Interlocal Cooperation Act, as amended, with authority to contract with each other on a basis of mutual advantage so as to better provide public services and facilities at a shared cost; and

**WHEREAS**, The Incorporated Town of Highland and the School Town of Highland desire to enter into a joint agreement pursuant to IC 36-1-7-1, et seq., to provide for the ability and flexibility to obtain for the Highland Students certain gang resistance training, a heightened law enforcement presence in the local public schools as well as other related services for the mutual benefit of the participating entities, and at a shared cost;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Highland, Lake County as follows:

**Section 1.** A joint agreement, a copy of which is attached and incorporated herein by reference, among and between the Incorporated Town of Highland and the School Town of Highland entered into by the Town of Highland by and through its Town Council, this 7<sup>th</sup> Day of September 2010 is hereby authorized and approved in each and every respect.

**Section 2.** The purpose of this agreement is to authorize and allow the Town Council of the Town of Highland and the School Board of Trustees to act as a joint board of the two participating entities to mutually support and

utilize certain specified services associated with the School Resource Officer Program for the mutual benefit of the participating entities at shared costs.

**Section 3.** The Clerk-Treasurer of the Town of Highland is hereby authorized to execute the duties related to the payment, collection and accounting for all moneys of this joint undertaking, pursuant to the terms of this agreement, in a manner that is mutually acceptable with the duly constituted and acting fiscal officer of the School Town of Highland.

**Section 4.** The governing boards of the participating entities may be convened as a joint board, or may act as a joint board at separate meetings of the respective governing bodies of the participating entities in which the entities concur.

**Section 5.** The governing boards of the participating entities may create a committee comprised of representatives from both participating entities or may designate a single individual from each of the participating entities, which may perform such administrative ministerial duties as the joint board may direct and the agreement may provide.

**Section 6.** The President of the Highland Town Council and the Clerk-Treasurer are hereby authorized to execute the joint Interlocal Governmental Agreement with their signatures and any additional documents in order to implement the agreement.

**Section 7.** This agreement shall be effective as indicated in and pursuant to its provisions, after the agreement has been authorized and approved by each of the participating entities, evidenced by passage and adoption of a similar Resolution all pursuant to I.C. 36-1-7-2.

**Section 8.** That upon its approval, this agreement repeals the agreements governing the school resource officer program, the first adopted January 17, 1997 and its succeeding agreements.

**Section 9.** That before this agreement takes effect, it must be recorded with the Office of the Lake County Recorder. No later than sixty (60) days after it takes effect and is recorded, the agreement must be filed with the Office of the State Board of Accounts for audit purposes, all pursuant to I.C. 36-1-7-6.

**Duly Adopted** by the Town Council of the Town of Highland, Lake County, Indiana, this 7<sup>th</sup> day of September 2010. Having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Mark A. Herak, President (IC 36-5-2-10)

Attest:

Michael W.Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

#### **INTERGOVERNMENTAL AGREEMENT**

This Interlocal Governmental Agreement made and entered into in accordance with I.C. 36-1-7 by and between the TOWN OF HIGHLAND (hereinafter called "Town") and the SCHOOL TOWN OF HIGHLAND (hereinafter called "School Town"), both municipal corporations organized and operating under the laws of the State of Indiana.

#### **WITNESSETH THAT:**

**WHEREAS**, the Town desires to provide a Town of Highland Police Officer to the School Town to serve in the capacity as School Resource Officer to instruct both the G.R.E.A.T. curriculum and the Officer Friendly program, and to perform other related duties.

#### **THEREFORE, IT IS AGREED AS FOLLOWS:**

1. The Town agrees to provide to the School Town the service of one (1) Highland police officer to serve as a School Resource Officer. The purpose of the School Resource Officer will be to minimize the potential for hate crimes/bullying, alcohol and drug-related use, gang-related activities, and disruption and/or criminal behavior in and around schools, such as theft, vandalism, truancy, etc. in the most effective and efficient manner possible. Said officer, who shall remain an employee of the Town, shall provide services as presented in a School Resource Officer Job Description, a copy of which is on file with the Town and the School Town. Said job description may be amended from time to time by a written amendment to this Agreement signed by representatives of both parties.

2. In consideration of the same, the School Town agrees to pay for said services in accordance with the terms of this Agreement the amount of **61,840.15 for a period of 180 days** during the 2010/2011 school-year. The basis for said compensation to the Town is presented as an exhibit to this agreement incorporated herein by reference. The School Town's compensation shall be paid in two (2) equal installments, as follows:

- (A) the first being due on or before December 31, 2010;
- (B) the second payment being due on or before June 30, 2011.

3. The Clerk-Treasurer of the Town shall be authorized to execute the duties of receiving payments from the School Town as described in paragraph two (2) and of disbursing and accounting for all such monies in a manner consistent with the terms of this Agreement.

4. The School Resource Officer will be assigned on a full-time basis to the School Town the equivalent of up to one hundred eighty (180) days during the school year. The School Town will only be financially responsible for the equivalent number of days actually worked by the School Resource Officer.

5. The School Resource Officer will wear clothing that will easily identify him or her as a police officer.

6. The School Resource Officer will not take personal time off when school is in session. If sick, he must notify the receptionist at the School Town Administration Center. A substitute may be assigned subject to mutual approval of the Police Chief and the School Superintendent.

7. Lunch must be eaten in a School Town cafeteria unless prior arrangements have been made with the Superintendent/designee.

8. The Town will assume all costs and responsibility of initial and ongoing training associated with the School Resource Officer position. Any vehicle or additional equipment or expenses necessary for the program shall be paid for by the Town.

9. The Town shall be responsible for selecting the police officer to serve as the School Resource Officer, subject to the consent and approval of the School Town. The School Town has final authority on the content of all instructional materials used by the School Resource Officer.

10. The administration of the terms of this Agreement shall supersede any previous Agreement and shall be accomplished through the Superintendent of the School Town or designee and the Chief of Police or designee.

11. Any other provision of this Agreement to the contrary notwithstanding this Agreement may be changed or modified only with the written consent of both parties.

12. All notices or communications provided herein shall be in writing and delivered either in person or via certified or registered United States mail, return receipt requested, and with the proper postage prepaid, addressed to the party for whom such notice or communication is intended.

13. Should any part, term, or provision of this Agreement be determined by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining portion or provisions shall not be affected thereby.

14. No failure or delay in performance of the executed service Agreement by either party shall be deemed to be a breach when such failure or delay is occasioned by or due to any Act of God, strike, lockout, war, riot, epidemic, explosion, sabotage, the binding order of any court or governmental authority, or any other cause, whether of the kind enumerated above or otherwise, not within the control of the party claiming suspension, actually provided that no cause or contingency shall relieve the School Town of its obligation. to make payment for the services of the School Resource Officer programs actually provided by the Town.

15. This Interlocal Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

16. Before this agreement takes effect, it must be recorded with the Office of the Lake County Recorder. No later than sixty (60) days after it takes effect and is recorded, the agreement must be filed with the Office of the State Board of Accounts for audit purposes, all pursuant to I.C. 36-1-7-6.

**Exhibit to follow:**

**Highland School Resource Officer  
Assumed 2010/2011 Payroll Cost**

<b>Salary</b>	<b>2010</b>	<b>2011</b>
Assigned officer's Sergeant base Salary	\$ 56,957.68	\$ 56,957.68
Assigned officer's longevity	\$ 1,206.40	\$ 1,206.40
One Time Pay Premium		
<b>Subtotal:</b>	<b>\$ 58,164.08</b>	<b>\$ 58,164.08</b>
<b>Benefits</b>		
Medical Insurance (Family coverage)	\$ 16,822.08	\$ 18,167.85 *
Dental Insurance	\$ 993.84	\$ 1,163.28 **
Life Insurance (.215 per \$1000 of gross payroll up to \$50K plus \$1 per mo. For dep. Coverage)	\$ 141.00	\$ 141.00
Medicare	\$ 843.38	\$ 843.38
Employer Contribution to PERF	\$ 10,210.98	\$ 10,210.98
Workers Compensation Insurance (1.23/\$100 salary)	\$ 715.42	\$ 715.42
Law Enforcement Liability Insurance (\$28,418/41 officers)	\$ 693.12	\$ 693.12
<b>Subtotal Benefits:</b>	<b>\$ 30,419.82</b>	<b>\$ 31,935.03</b>
<b>Grand Total:</b>	<b>\$ 88,583.90</b>	<b>\$ 90,099.11</b>
Town Share 185/365 days = 51%	\$ 45,177.79	\$ 45,950.54
School Share 180/365 days = 49%	\$ 43,406.11	\$ 44,148.56
* Assumes an 8% increase		
** Assumes a 10% increase	\$ 340.71	\$ 346.54
School Compensation for 2010-2011 School Year:		
2010 Days Students are in School = 92		
Daily rate: (\$88,583.90/260 = \$340.71)	Semester 1:	<u>\$ 31,345.07</u>
2011 Days Students are in School = 88		
Daily rate: (90,099.11/260 = \$346.54)	Semester 2:	<u>\$ 30,495.08</u>
<b>School Total:</b>		<b>\$ 61,840.15</b>
1st Installment Due December 31, 2010:		\$ 30,920.08
2nd Installment Due June 30, 2011:		\$ 30,920.08

**10. Works Board Order No. 2010-40:** An ORDER AUTHORIZING and Approving the Thirteenth change order to the construction Contract R-30936-A related to the Kennedy Avenue Improvement Project, Northern Terminus at Little Calumet River and southern Terminus at Ridge Road, a Federal Aid Highway Project, all pursuant to IC 36-1-12-18.

Councilor Novak moved the passage and adoption of Works Board Order No. 2010-40. Councilor Kuiper seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The Works Board Order was adopted.

**THE TOWN of HIGHLAND  
ORDER of the WORKS BOARD NO. 2010-40**

**A N ORDER AUTHORIZING and APPROVING THE THIRTEENTH CHANGE ORDER to the CONSTRUCTION CONTRACT R-30936-A RELATED to the KENNEDY AVENUE IMPROVEMENT PROJECT, NORTHERN TERMINUS AT LITTLE CALUMET RIVER AND SOUTHERN TERMINUS AT RIDGE ROAD, A FEDERAL AID HIGHWAY PROJECT, ALL PURSUANT TO IC 36-1-12-18**

**Whereas**, The Town of Highland, through its Town Council, which is the Works Board of the Municipality pursuant to I.C. 36-1-2-24 (3), has heretofore authorized and approved a public works project for street construction and other improvements in the public roadway through the assistance of federal highway aid funds, with the project commonly known as the **Kennedy Avenue Reconstruction Project**;

**Whereas**, In the course of the construction, reconstruction, or repair of the Kennedy Avenue Reconstruction Project, it has become necessary to change or alter the original specifications of the project;



**Whereas**, First Group Engineering (FGE), Incorporated, a licensed engineer performing construction engineering services on this project, at the request of the Town through its Public Works Director, has specifically identified and presented descriptions of such changes as one (1) proposed addendum, to be known as the *thirteenth addendum* to the original construction contract with Grimmer Construction, Inc., particularly in support of changes in costs associated with items outlined in the order document which has a net effect of increasing the contract cost; and

**Whereas**, There are sufficient and available appropriations balances on hand to support any additional payments, if required, under the agreement, pursuant to IC 5-22;

**Whereas**, The Town of Highland, through its Town Council which is also the Board of Works, now desires to accept and issue the orders for change as described;

**Now Therefore Be it hereby Ordered** by the Town Council of the Town of Highland, Lake County, Indiana;

**Section 1** That the Thirteenth Addenda to the Construction Contract R-30936-A with Grimmer Construction, Inc. for the **Kennedy Avenue Reconstruction Project**, as prepared by First Group Engineering, Incorporated, a licensed engineer performing construction engineering services on this project, are hereby determined to be directly related to the original project and are hereby approved, adopted and ratified in each and every respect;

**Section 2** That the thirteenth addendum is hereby ordered to be known as **Change Order No. 13**, issued to add a net decrease to the original, and to evidence approval for any item that deviating from the original plans by more than \$20,000, pursuant to the requirements of the Indiana Department of Transportation;

**Section 3.** That the adoption and approval of the change order numbered 13, has the aggregate effect of producing a *net decrease* in the amount of four hundred ten thousand, three hundred twenty-six dollars and eighty-eight cents (\$410,326.88) thereby keeping the total value of the entire agreement with any and all change orders approved to date to seven million, one hundred twenty-one thousand, six hundred six dollars and one cent (\$7,121,606.01);

**Section 4.** That as any additional units of materials included in the original contract become needed, the cost of these units in this change order be the same as those shown in the original contract, all pursuant to IC 36-1-12-18(f);

**Section 5.** That the total of all change orders issued that increase the scope of this project may not exceed twenty percent (20%) of the amount of the original contract, that original amount being seven million, three hundred-thirty-five thousand, six hundred thirty-eight dollars and eighty cents (\$7,335,638.80) which may not exceed eight million, eight hundred two thousand, seven hundred sixty-six dollars and twenty cents (\$8,802,766.20) all pursuant to IC 36-1-12-18(d);

**Section 6.** That the proper officers hereby be and are authorized to execute the necessary documents with their signatures.

**Be it So Ordered.**

**DULY, PASSED and ORDERED BY** the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 7<sup>th</sup> day of September 2010 having passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Mark A. Herak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

**11. Works Board Order No. 2010-41:** An ORDER Acknowledging the completion of the Punch list items as being completed to the construction Contract R-30936-A related to the Kennedy Avenue Improvement Project, Northern Terminus at Little Calumet River and southern Terminus at Ridge Road, a Federal Aid Highway Project, and Approving Final Acceptance of the Project.

Councilor Vassar moved the passage and adoption of Works Board Order No. 2010-41. Councilor Zemen seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The Works Board Order was adopted.

THE TOWN of HIGHLAND  
ORDER of the WORKS BOARD NO. 2010-41

**AN ORDER ACKNOWLEDGING THE COMPLETION OF THE PUNCH LIST ITEMS AS BEING COMPLETED TO THE CONSTRUCTION CONTRACT R-30936, RELATED TO THE KENNEDY AVENUE IMPROVEMENT PROJECT, NORTHERN TERMINUS AT LITTLE CALUMET RIVER AND SOUTHERN TERMINUS AT RIDGE ROAD, A FEDERAL AID HIGHWAY PROJECT, AND APPROVING FINAL ACCEPTANCE OF THE PROJECT.**

**Whereas**, The Town of Highland, through its Town Council, which is the Works Board of the Municipality pursuant to I.C. 36-1-2-24 (3), has heretofore authorized and approved a public works project for street construction and other improvements in the public roadway through the assistance of federal highway aid funds, with the project commonly known as the **Kennedy Avenue Reconstruction Project**;

**Whereas**, First Group Engineering (FGE), Incorporated, a licensed engineer performing construction engineering services on this project, at the request of the Town through its Public Works Director, has specifically identified and presented a report of contract final inspection, which indicates that all punch list matters have been completed, the project is fully complete and recommends to the Town final acceptance of the completed project; and

**Whereas**, The Town of Highland, through its Town Council which is also the Board of Works, now desires to acknowledge the completion of the punch list items, and to accept the recommendation of First Group Engineering for final acceptance of the completed project as described;

**Now Therefore Be it hereby Ordered** by the Town Council of the Town of Highland, Lake County, Indiana;

**Section 1** That the Town Council, which is also the Board of Works for the municipality, hereby acknowledges that First Group Engineers, in consequence of its construction engineering services, has specifically identified and presented a report of Contract Final Inspection, which indicates that all punch list matters have been completed, the project is fully complete and recommends to the Town final acceptance of the completed project;

**Section 2** That the Town Council, which is also the Board of Works for the municipality, hereby further acknowledges, accepts and approves the report of Contract Final Inspection, finds that all punch list matters are now completed, the project is fully complete and accepts the Kennedy Avenue Reconstruction Project, identified under Contract R-30936, Project STP-N893(005) as completed and final;

**Section 3.** That the proper officers hereby be and are authorized to execute the necessary documents with their signatures, including but not limited to the Report of Contract Final Inspection and Recommendation for Acceptance.

**Be it So Ordered.**

**DULY, PASSED and ORDERED BY** the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 7<sup>th</sup> day of September 2010 having passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Mark A. Herak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

12. Authorization for the proper officer to publish legal notice for a hearing on proposed additional appropriations in excess of the 2010 Budget for the Sanitation and Streets Department of the Corporation General Fund in the amount of \$31,000 and in the Solid Waste District Grant Fund in the amount of \$34,500.

Councilor Kuiper moved to authorize the publication of the legal notice of a public hearing regarding proposed additional appropriations as indicated. Councilor Zemen seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The publication and hearing were authorized.

13. Action to approve overtime payments for Exempt Salaried Personnel, pursuant to Section 3 of Ordinance No. 1375 the Wage and Salary Ordinance, as amended and Section §4.03.01 of the Compensation and Benefits Ordinance. This waives the provisions of Section § 2.01 of the Compensation and Benefits Ordinance.

15.1 *The Metropolitan Police Chief requests favorable action for R. Potesta, who is an exempt salaried employee, and investigations division commander, in the amount of \$200 for work associated with Highland Grove Mall Special Security.*

15.2 *The Metropolitan Police Chief requests favorable action for P. Vassar, who is an exempt salaried employee, Assistant Police Chief and Patrol Division Commander, in the amount of \$100.00, for work associated with Highland Grove Mall Special Security.*

Councilor Zemen moved to approve the overtime payments to the exempt salaried personnel as presented by the Metropolitan Police Chief. Councilor Kuiper seconded. Upon a roll call vote, there were four affirmatives, no negatives and one abstention. With Councilors Zemen, Novak, Kuiper, and Herak voting in the affirmative and Councilor Vassar abstaining, the motion passed. The overtime payments were approved.

Councilor Vassar abstained because one of the persons for whom the overtime request was made was his brother, Assistant Chief Vassar.

**Comments from the Town Council Members**  
**(For the Good of the Order)**

- **Councilor Bernie Zemen:** • *Park and Recreation Board Liaison • Town Board of Metropolitan Police Commissioners • Lake County Solid Waste Management District Board of Directors • President's designee to Chair the Select Centennial Commission • Chamber of Commerce, Liaison.*

Councilor Zemen commented favorably on his enrollment to participate in a forthcoming Citizens Police Academy.

Councilor Zemen reported that the Midwest Zest Fest, sponsored by the Highland Chamber of Commerce would be taking place this weekend at the Main Square Park.

- **Councilor Dan Vassar:** • *Redevelopment Commission Liaison • Plan Commission member.*

Councilor Vassar had no comment.

- **Councilor Brian Novak:** • *Advisory Board of Zoning Appeals, Liaison • Traffic Safety Commission Member.*

Councilor Novak recognized the Metropolitan Police Chief who reported that the Traffic Safety Commission was dealing with the management of Target, located at the Highland Grove Shopping Mall regarding the need to prohibit left turns from the Target parking lot onto Main Square.

- **Councilor Konnie Kuiper:** • *Fire Department, Liaison.*

Councilor Kuiper commended the Fire Department for its recent training regarding responses to hazardous materials incidents.

- **Councilor Mark Herak:** • *Town Executive • Police Pension Board of Trustees Chair • Budget Committee Chair • Board of Sanitary Commissioners, Liaison • Board of Waterworks Directors, Liaison • Community Events Commission, Liaison.*

Council President Herak noted that the Sanitary Board in a contemporaneous meeting passed and adopted a resolution to authorize the sales of the remaining balance of \$2,360,000 of bonds for the Sanitary District.

The Town Council President engaged in an informal colloquy with the Public Works Director in which the Town Council President expressed concern about the contours and topography of the Cline Avenue Reconstruction Project. The discussion included concerns expressed regarding the perception of a difference in elevation from the Griffith and Highland sides of the roadway.

The Public Works Director also discussed the street paving program and that it may be advisable to discuss this with the Town Council at a future study session.

The Town Council President recognized the Redevelopment Director who reported that the Lake Michigan Coastal Grant Workshop would be conducted on September 8, 2010 at the Highland Town Hall. She further reported that the Redevelopment Commission approved an application related to participation in the Main Street Community Development Program.

**Amend Agenda.** Councilor Vassar moved that the agenda be amended to permit consideration of a request to prepare a proper legislative instrument regarding eliminating consideration of a person's partisan affiliation as part of appointing members to the Park and Recreation Board. Councilor Kuiper seconded. Upon a roll call vote, a two-thirds vote being necessary, there were five affirmatives and no negatives. The motion passed. The Agenda was amended.

**Request that the Clerk-Treasurer or the Town Attorney prepare a proper legislative instrument regarding eliminating the requirement to consider a person's partisan affiliation as part of appointing members to the Park and Recreation Board.** Councilor Vassar moved to request that the Clerk-Treasurer or the Town Attorney prepare a proper legislative instrument regarding eliminating the requirement to consider a person's partisan affiliation as part of appointing members to the Park and Recreation Board and have it placed upon the agenda of a subsequent meeting of the Town Council. Councilor Kuiper seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The request for preparation as indicated was approved.

#### **Comments from the Public or Visitors**

1. Janet Mika, 8110 Fifth Street, Highland, thanked the Town Council for its review and efforts related to her request made at the meeting of August 16, 2010, that the dedicated alley that lay behind her home be paved. Ms. Mika inquired whether or not the alley could be chipped and scaled and that gravel not be the resurfacing material used.

**Payment of Accounts Payable Vouchers.** Councilor Kuiper moved to allow the accounts payable vouchers as filed on the pending pay docket, covering the period August 17, 2010 through to September 07, 2010. Councilor Novak seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The accounts payable vouchers were allowed and the clerk-treasurer was authorized to make payment.

**General Fund, \$297,742.12; Motor Vehicle Highway and Street (MVH) Fund, \$12,934.04; Local Road and Street Fund, \$7,141.78; VIPS/Parks Public Safety Fund, \$389.28; Forfeit and Seized Assets Fund, \$600.00; Law Enforcement Continuing Education and Training Fund, \$1,390.79; Flexible Savings Account (FSA) Agency Fund, \$966.18; Information and Communications Technology Fund, \$11,210.67; Solid Waste District Grant Fund, \$141.46; Civil Donation Fund, \$4,719.83; Special Events Non Reverting Fund, \$2,346.93; Rainy Day Fund, \$2,550.00; Police Pension Fund, \$58,401.18; Cumulative Capital Improvement Fund, \$5,051.00; General Improvement Fund, \$309.00; Traffic and Law Violations Fund, \$3,815.00; Safe Neighborhood Fund, \$4,237.50; Municipal Cumulative Street Fund, \$440.00; Federal Sexual Predator Grant Fund, \$51,614.35; Gaming Revenue Sharing Fund, \$10,912.50; Payroll Fund, \$10.36; Total: \$476,923.97.**

**Adjournment.** Councilor Zemen moved that the regular meeting be adjourned. Councilor Novak seconded. Upon a vote *viva voce*, the motion passed. The rescheduled regular Town Council meeting of **Tuesday, September 07, 2010** was adjourned at 7:59 O'clock p.m.

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer